

REMARKS

Entry of the foregoing and further and favorable reconsideration of the subject application is respectfully requested. By the present Amendment, the specification has been amended to correct minor and typographical errors. No new matter has been added.

Claim Rejections - 35 USC 103(a)

Claims 1-5, 7-19, 21 and 23-24 stand rejected under 35 USC 103(a) as purportedly obvious over Dryden (US 5,125,893) in view of Armenia (US 6,446,671). This rejection is respectfully traversed.

The rejected claims recite, *inter alia*,

an overpressure control element adapted to maintain a pressure of fluid within the connector below a predetermined threshold level, wherein the overpressure control element comprises an extension tube connected to the first attachment portion, and is adapted to burst when the pressure within the connector exceeds the predetermined threshold level.

Dryden teaches a suction catheter for irrigation and suction of a patient's lungs. *Dryden, Col. 1, lines 22-24.* The Examiner's interpretation of the teachings of Dryden is set forth at pages 3-4 of the Official Action. The Examiner argues at page 4 of the Official Action that

an overpressure control element or "pressure relief valve" (as identified in applicant's claim 7) adapted to maintain a pressure of fluid within the connector below a predetermined threshold level is inherent in the Dryden reference (valve 35 i.e. and its function)...

Applicants respectfully disagree with the Examiner's interpretation of Dryden. Reference number 35 of Dryden does refer to a valve. At col. 2, lines 55-56 Dryden explains that valve 35 regulates the amount of irrigation fluid supplied to the patient's lungs. However, Dryden does not teach that valve 35 is a "pressure relief valve," nor that valve 35 is adapted to burst when the pressure within the irrigation supply line exceeds a predetermined threshold level, as required by the rejected claims. What is more, there is no basis to conclude that an "overpressure control element" is inherent in Dryden. The Examiner has pointed to no

evidence, either in Dryden or elsewhere, that would lead to the conclusion that an overpressure control valve is necessarily present in the Dryden apparatus. See, e.g., *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999); see also, MPEP 2112.IV.

The Examiner next argues, at page 4 of the Official Action, that

In the alternative it would have been an obvious modification thereof and well known to a person having ordinary skill in the art to construct the valve (35) to be an "over pressure control element" to allow a safe pressure level of fluid to reach a patient, and be a pressure relief valve. Such valves are well known in the art.

Applicants respectfully disagree with the Examiner's position. First, there is no teaching in Dryden that would lead one of ordinary skill in the art to modify the valve 35 taught therein in order to convert it into the claimed overpressure control element. See, e.g., *Ex parte Levingood*, 28 USPQ2d 1300 (BPAI 1993); see also, MPEP 2143.01.IV. What is more, Applicants respectfully dispute the Examiner's contention that overpressure control valves of the type recited in the rejected claims are well-known in the art, and respectfully request that the Examiner provide documentary evidence in support of that contention. See, MPEP 2144.03.C.

The Examiner further asserts, at pages 4-5 of the Official Action, that Armenia

Teaches that it is known to use an overpressure control element being an extension tube and having a [sic] external collection jacket (Armenia 30) disposed around as set forth in paragraphs at columns 3-4 to provide a controlling means to contain a spill or rupture within the device.

Applicants respectfully disagree with the Examiner's interpretation of the teachings of Armenia. Armenia does not teach an overpressure control element of any kind. Instead, Armenia teaches a double-walled hose, where the outer wall traps any water that leaks from the inner hose section within the outer hose section. Armenia, Col. 2, lines 53-62. No part of the Armenia hose is adapted to burst in response to an increase in pressure above a predetermined threshold, as required by the present claims. Accordingly, modifying the device of Dryden to incorporate a double-walled hose according to Armenia does not lead to the presently claimed invention.

The Examiner notes at page 5 that Dryden in view of Armenia does not disclose the particular threshold levels of 300, 100, 80, or 40 psi of the rejected claims. This is because neither Dryden, nor Armenia, incorporates an overpressure control element as required by the recited claims, and there is no suggestion in either Dryden or Armenia to make such a modification, nor to optimize the pressure relief threshold, as the Examiner suggests.

Accordingly, the rejected claims are not *prima facie* obvious over Dryden in view of Armenia. Withdrawal of this rejection is therefore respectfully requested.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is respectfully requested.

In the event that there are any questions concerning this Amendment, or the application in general, the Examiner is respectfully urged to telephone Applicants' undersigned representative so that prosecution of the application may be expedited.

The Director is hereby authorized to charge any additional fees which may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-4047 (7061822001).

Respectfully submitted,

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